



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 18, 1998

Ms. Leah Davis-Bates
Attorney at Law
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR98-1970

Dear Ms. Davis-Bates:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117600.

The Texas Department of Public Safety (the "department") received a request for a copy of the tape recording and transcript of the statement taken from Johnny Pesina. You contend that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime." You state that the requested information relates to a pending criminal investigation and grand jury proceeding. Based upon this representation, we conclude that the release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the department may withhold the information from disclosure under section 552.108(a)(1).

Because we are able to resolve this matter under section 552.108, we do not address you section 552.103 claim. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a

previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Karen Hattaway". The signature is written in a cursive, flowing style.

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 117600

Enclosures: Submitted documents

cc: Mr. Anthony J. Nelson
Allison, Bass & Associates, L.L.P.
208 West 14th Street
Austin, Texas 78701
(w/o enclosures)